

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS, <u>ex rel.</u> ,)	<u>This Proceeding is</u>
ROBERT H. MURIEL, DIRECTOR OF THE)	<u>Confidential Under</u>
ILLINOIS DEPARTMENT OF INSURANCE,)	<u>215 ILCS 5/188.1 and</u>
)	<u>pursuant to Court order</u>
Plaintiffs,)	
)	
v.)	No. 2020 CH 04431
)	
NEXTLEVEL HEALTH PARTNERS, INC.,)	
An Illinois domestic Health Maintenance Organization,)	
)	
Defendant.)	

ORDER

This matter came to be heard upon the agreed motion (the “**Motion**”) of NextLevel Health Partners, Inc. (“**NextLevel MCO**”), and Robert Muriel, the Illinois Director of Insurance, solely in his capacity as statutory and court-affirmed conservator of NextLevel MCO (the “**Conservator**”), for entry of an order (this “**Order**”) (i) authorizing and approving the membership transfer and transactions contemplated by that certain Member Transfer Agreement (the “**Agreement**”) and other Transaction Documents (as defined in the Agreement; collectively, the “**Transaction**”) by and among NextLevel MCO and Meridian Health Plan of Illinois, Inc., (“**Meridian**”), due notice having been given, the Court having received evidence and argument of counsel during a sequestered and confidential hearing pursuant to 215 ILCS 5/188.1(4) the (“**Hearing**”), and otherwise being advised fully in the premises.

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Motion or the Agreement, as applicable.

Based upon the sworn declarations of Special Deputy Conservator J. Kevin Baldwin, Dr. Cheryl Whitaker, and Mr. Glen A. Giese, the facts contained in the Verified Complaint for Conservation of Assets and Injunctive Relief filed in this proceeding, sworn testimony provided during the hearing, and other materials and information submitted to the Court,

THE COURT HEREBY FINDS AND CONCLUDES THAT:

1. The Court has exclusive jurisdiction to consider the Motion and the relief requested therein.
2. NextLevel MCO is an Illinois domiciled health maintenance organization and wholly owned subsidiary of NextLevel Health Innovations, Inc., a Delaware corporation ("**NextLevel Parent**").
3. NextLevel MCO is in conservation pursuant to this Court's Order of Conservation of Assets and Injunctive Relief entered on June 9, 2020. ("**Conservation Order**").
4. Robert Muriel, the Illinois Director of Insurance (the "**Director**"), is the statutory and court-affirmed Conservator of NextLevel MCO, appointed pursuant to 215 ILCS 5/188.1.
5. J. Kevin Baldwin is the Acting Special Deputy Conservator ("**Special Deputy**") of NextLevel MCO.
6. Meridian is an Illinois domestic health maintenance organization.
7. Centene is a Delaware corporation ("**Centene**").
8. In addition to facts established in the record of this proceeding, the Court has received into evidence:

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15. Absent prompt consummation of the Transaction, the value of NextLevel MCO is likely to decline significantly.
16. The Declaration of Dr. Cheryl Whitaker and the Declaration of Glenn A. Giese are uncontroverted for purposes of the Motion, admitted into evidence and provide that NextLevel MCO attests it will be solvent and will have adequate capital and sufficient cash flow to conduct a runoff of its business under the supervision of the Director immediately after giving effect to the closing of the Transaction (the “Closing”).
17. NextLevel MCO was free to deal with any other party interested in participating in a similar transaction and complied with applicable law in all respects and that was communicated to Centene and Meridian. NextLevel MCO has been, is, and will continue to act in good faith if it consummates the Transaction pursuant to the Transaction Documents and NextLevel MCO believes that Centene and Meridian have been, are, and will continue to act in good faith if it consummates the Transaction pursuant to the Transaction Documents.
18. Each of Centene and Meridian, as applicable, is in all respects a good faith purchaser for value.
19. 215 ILCS 5/204, including specifically 215 ILCS 5/204(m)(A) and (C), constitute defenses to preference actions, fraudulent transfers and fraudulent conveyances, arising out of or relating to transactions such as the Agreement and Transaction that are approved by the Director in his capacity as regulator and, to the extent that the statute is applicable, would preclude the Director in his capacity as statutory rehabilitator or liquidator from seeking to avoid any part of the Transaction as a preference, fraudulent transfer, or

fraudulent conveyance or seeking or requiring any additional consideration from the Protected Parties.

20. The legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein.

IT IS HEREBY ORDERED THAT:

- A. The Motion is GRANTED.
- B. The Conservator's approval of the Agreement and the Transaction is hereby approved.
- C. The Conservator's exercise of his discretion in executing the Covenant (as defined in the Special Deputy Declaration) and the Covenant are hereby approved and the Covenant is binding on any future receiver, whether as successor conservator, liquidator, or rehabilitator.
- D. This Court shall retain jurisdiction in this cause for the purpose of enforcing and implementing the terms of this Order.
- E. This order is final within the meaning of Illinois Supreme Court Rule 304(b)(2) as having been entered in the administration of this receivership and having finally determined the right of a party and which is not appealable under Rule 307(a).

This order shall be effective immediately.

Dated at [●], [●], this [●] day of June, 2020

ENTERED:

JUDGE PRESIDING



Judge Pamela McLean Meyerson

JUN 29 2020
Circuit Court – 2097

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11. Among alternatives presented to NextLevel MCO and NextLevel Parent in the last 12 months in connection with NextLevel MCO's sale process, the Transaction, including the terms and conditions set forth in the Agreement and the total consideration to be realized by NextLevel MCO thereunder: (i) is the highest and best offer received by NextLevel MCO; (ii) presents the best opportunity to realize the maximum value of NextLevel MCO's assets and avoid a decline and devaluation of such assets; (iii) is in the best interests of NextLevel MCO, its creditors, its equity holders and the NLH Covered Members; (iv) will provide a greater recovery for NextLevel MCO than would be provided by any other presently available alternative; and (v) will provide good, valid and valuable consideration.
12. No other person or entity has offered to engage in a similar Transaction for greater economic value to NextLevel MCO, its creditors, or the NLH Covered Members, than Meridian's offer pursuant to the Agreement.
13. Approval of the Transaction by NextLevel MCO's Board of Directors is an appropriate exercise of the Board's informed business judgment, taken after consideration of all relevant facts, circumstances and materials, and after consultation of legal counsel experienced in managed health care transactions, insurer receivership, and related regulatory matters.
14. Approval of the Transaction, and agreement to the Covenant (as defined in the Special Deputy Declaration), by the Special Deputy represents an appropriate exercise of his discretion, and is an affirmative act on which NextLevel MCO, Centene and Meridian may rely, and absent which NextLevel MCO, Centene and Meridian would not be willing to consummate the Transaction.

- (a) Executed copies of the Agreement and Transaction Documents, including the Covenant Not to Sue;¹
 - (b) The Declaration of Dr. Cheryl Whitaker made under oath pursuant to 735 ILCS 5/1-109 in support of the Motion;
 - (c) The Declaration of Glenn A. Giese made under oath pursuant to 735 ILCS 5/1-109 in support of the Motion;
 - (d) The Declaration of J. Kevin Baldwin, Acting Special Deputy Conservator made under oath pursuant to 735 ILCS 5/1-109 in support of the Motion (the “**Special Deputy Declaration**”); and
 - (e) That certain form of approval letter, to be executed by the Director and addressed to Centene, evidencing regulatory approval for the Transaction pursuant to 215 ILCS 125/5-3(d) (the “**IDOI Approval Letter**”), a form of which was submitted as Exhibit 2.
9. The Transaction Documents were negotiated and proposed by NextLevel MCO, NextLevel Parent, Centene and Meridian, as applicable, without collusion or fraud, in good faith, and from arm’s length bargaining positions.
10. The Agreement and the consummation of the Transaction are fair and reasonable and protective of the interests of NextLevel MCO, its creditors, and the individuals to whom NextLevel MCO provides services pursuant to HCIL Contract No. 2018-24-801 (the “**NLH Covered Members**”).

¹ “**Covenant Not to Sue**” (also referred to as the “**Covenant**,”) means that certain Conservator Covenant, by and among the Conservator, Centene Corporation, Meridian Health Plan of Illinois, Inc., NextLevel Health Partners, Inc. and NextLevel Health Innovations, Inc.